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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL CATALDO,
JULIAN SANTIAGO, and SUSAN LYNN
HARVEY individually and on behalf of all
other similarly situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688-RS

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

Judge: Hon. Richard Seeborg
Courtroom 3 – 17th Floor
Date: October 5, 2023
Time: 1:30 p.m.

Pursuant to Civil Local Rule 7-11 and 79-5 and the Stipulated Protective Order entered in this matter, Plaintiffs respectfully submit this Administrative Motion to Seal the following material submitted with Plaintiffs' motion for class certification.

Document or Portion of Document Sought to Be Sealed	Party Claiming Confidentiality	Basis for Sealing
March 22, 2023 Expert Report of Plaintiffs' Expert Jonathan Hochman ("Hochman Report"): Portions highlighted in teal in paragraphs 149, 152, 182, 191, 192, 244, and 246	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix A (entirety)	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix B.1 (entirety)	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix B.2 (entirety)	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix C	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix D	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Hochman Report Appendix K	Plaintiffs	Refers to Material Designated "Confidential" by Plaintiffs pursuant to the Protective Order
Plaintiffs' Motion for Class Certification: portions highlighted in yellow throughout	Google	Refers to Material Designated "Confidential" and "Highly Confidential – Attorneys' Eyes Only" by Google pursuant to the Protective Order
Plaintiffs' Trial Plan in Support of Plaintiffs' Motion for Class Certification: portions highlighted in yellow	Google	Refers to Material Designated "Confidential" and "Highly Confidential – Attorneys' Eyes

		Only” by Google pursuant to the Protective Order
Mao Declaration in Support of Plaintiffs’ Motion for Class Certification: Entirety of Exhibits 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 19, 20, 42, 43, 49, 50, 51, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 65, 66, 67, 68, and 69.	Google	Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
Expert Report of Plaintiffs’ Expert Jonathan Hochman (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
Expert Report of Plaintiffs’ Expert Bruce Schneier (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
Expert Report of Plaintiffs’ Expert Michael Lasinski (entirety)	Google	Refers throughout to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order
Expert Report of Plaintiffs’ Expert Cameron Azari (entirety)	Google	Refers to Material Designated “Confidential” and “Highly Confidential – Attorneys’ Eyes Only” by Google pursuant to the Protective Order

I. LEGAL STANDARD

A. Party Seeking to Seal Its Own Records

“The public has a right of access to the Court’s files.” Civil L.R. 79-5(a). The presumption of public access can be overcome where the sealing party “articulate[s] compelling reasons supported by specific factual findings . . . that outweigh . . . public policies favoring disclosure such as the public interest in understanding the judicial process.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178–79 (9th Cir. 2006) (citations omitted). Courts “must conscientiously balance the competing interests of the public and the party who seeks to keep

certain judicial records secret.” *Id.* (citing *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)) (marks omitted).

B. Party Seeking to Seal Another Party’s Records

Many of the documents listed above quote, summarize, or otherwise reflect information that Defendant, Google LLC (“Google”) has designated as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” under the parties’ stipulated protective order. Dkt. 70. Pursuant to Civil Local Rules 79-5(c)(1) and 79-5(f)(3), Google, as the designating party, bears the burden of establishing that all of the designated material is sealable. At present, Plaintiffs take no position as to whether the material Google designated under the protective order is sealable.

II. ARGUMENT

Plaintiffs seek to seal limited portions of the expert report submitted by their technical expert, Mr. Jonathan Hochman. These portions contain material that Plaintiffs are designating “Confidential” pursuant to the parties’ stipulated Protective Order. Specifically, the portions sought to be sealed associate one of the named Plaintiffs with various identifiers. *E.g.*, Hochman Report ¶ 192 (discussing a named Plaintiff’s phone number, zip code, and device information). In other cases, Plaintiffs seek to seal spreadsheets containing and analyzing records produced from Google’s logs, which Plaintiffs expect Google will in any event seek to seal. Plaintiffs’ narrowly tailored proposals “will not interfere with the public’s ability to understand the judicial process.” *Ojmar US, LLC v. Sec. People, Inc.*, No. 16-cv-04948-HSG, 2016 WL 6091543, at *2 (N.D. Cal. Oct. 19, 2016). Plaintiffs are not seeking to redact any of Mr. Hochman’s opinions.

Furthermore, “an individual’s privacy interest” is a compelling reason to seal a document. *Nursing Home Pension Fund v. Oracle Corp.*, No. C01-0100988 MJJ, 2007 WL 3232267, at *2 (N.D. Cal. Nov. 1, 2007) (allowing redaction of home addresses and financial account information); *Pension Plan for Pension Tr. Fund for Operating Eng’rs. v. Giacalone Elec. Servs., Inc.*, No. 13-cv-02338-SI, 2015 WL 3956143, at *10 (N.D. Cal. June 29, 2015). Courts in this District have previously granted substantially similar motions to seal similar materials. *See Calhoun v. Google LLC*, No. 4:20-cv-05146-YGR-SVK (N.D. Cal.), Dkt. 198 (sealing *Calhoun*

1 plaintiffs' web browsing history and information); *Brown v. Google*, No. 4:20-cv-03664-YGR
 2 (N.D. Cal.), Dkt. 804 (sealing *Brown* plaintiffs' web browsing history and information).

3 Additionally, public exposure of the information that Plaintiffs seek to seal could subject
 4 Plaintiffs to a risk of identity theft. *See, e.g., Adkins v. Facebook, Inc.*, 424 F. Supp. 3d 686, 689
 5 (N.D. Cal. 2019) (recognizing that identifiers enable malicious actors to access consumers'
 6 accounts); *McDonald v. CP OpCo, LLC*, 2019 WL 343470, at *9 (N.D. Cal. Jan. 28, 2019) (sealing
 7 email addresses, recognizing that the email addresses "could become a vehicle for improper
 8 purposes").

9 **III. CONCLUSION**

10 For the reasons articulated herein, Plaintiffs respectfully request that the Court grant their
 11 Administrative Motion to Seal. Plaintiffs presently take no position on Google's designated
 12 materials, and will review Google's submitted declaration in support of sealing upon filing and
 13 respond if necessary.

14 Dated: July 20, 2023

Respectfully submitted,

15 By: /s/Mark Mao

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